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4 **LEWIS BRISBOIS BISGAARD
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7 Attorneys for Defendants
8 *AMERICAN HOME ASSURANCE COMPANY,*
9 *BROADSPIRE SERVICES, INC. and*
10 *DAMALI BROOKS*

11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

12 JOHN SILON,

13 Plaintiff,

14 v.

15 AMERICAN HOME ASSURANCE COMPANY,
16 BROADSPIRE SERVICES, INC., DAMALI
BROOKS and DOES 1 through 10,

17 Defendants.

Case No.

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. § 1441 (DIVERSITY)**

18
19 Defendants American Home Assurance Company, Broadspire Services Inc., and Damali
20 Brooks (collectively "Defendants"), by and through counsel, hereby remove to this Court the state
21 court action described below, and in support states as follows:

22 1. On November 17, 2008, an action was commenced in the Eighth Judicial District
23 Court, Clark County, Nevada, entitled *John Silon vs. American home Assurance Company, et al.*,
24 Case No. A575919. (A copy of the complaint in this state court action is attached as **Exhibit A.**)

25 2. The summons and complaint were served on Broadspire Services Inc. by The
26 Corporation Trust Company of Nevada on November 20, 2007. (A copy of the proof of service is
27 attached as **Exhibit B.**)

28 ...

1 3. This Notice is thus filed timely pursuant to 28 U.S.C. section 1446(b). Thirty days
2 have not elapsed since Defendants first received a copy of the initial pleading in the state court action.

3 4. No further proceedings have been had in this matter in the Eighth Judicial District
4 Court, Clark County, Nevada.

5 5. Plaintiff has fraudulently joined Damali Brooks, who has no real interest in these
6 claims, as a Defendant in this lawsuit for the purpose of preventing removal of what is an otherwise
7 diverse claim. There is no colorable basis for the claims against Damali Brooks, and a motion to
8 dismiss Damali Brooks pursuant to Fed. R. Civ. P. 12(b)(6) will be filed by Defendants.

9 6. As such, this action is a civil action of which this Court has original jurisdiction under
10 28 U.S.C. section 1332, as there is complete diversity between the legitimate parties and more than
11 \$75,000 in controversy exclusive of interest and costs. Accordingly, pursuant to 28 U.S.C. section
12 1441, Defendants are entitled to remove this action to this Court.

13 7. This case involves a claim for benefits under an insurance policy. Plaintiff has
14 demanded in excess of \$75,000, exclusive of interest and costs.

15 8. Plaintiff is, and during all relevant times was, a resident of the State of Nevada.
16 Defendant American Home Assurance Company is, and was at the time this action commenced, a
17 corporation organized and existing under the laws of the State of New York, with its principal place
18 of business in the State of New York. Defendant Broadspire Services, Inc. is, and was at the time this
19 action commenced, a corporation organized and existing under the laws of the State of Delaware, with
20 its principal place of business in the State of Florida. Defendant Damali Brooks is alleged to be a
21 citizen of Nevada; however, as discussed above, Ms. Brooks is not a proper party to this action and
22 has been fraudulently joined to preclude removal. Accordingly, there is now, and there was at the time
23 of the commencement of this action, complete diversity between Plaintiff and proper Defendants.

24 9. The action in the state court was not commenced more than one year before the date of
25 this removal.

26 10. A true and correct copy of Defendants' Notice of Removal is being filed with the
27 Clerk for the Eighth Judicial District Court, Clark County, Nevada.

28 ...

Based on the foregoing, Defendants remove this action, which is currently pending in the Eighth Judicial District Court, Clark County, Nevada as Case No. A575919 to this Court.

DATED this 19th day of December, 2008.

LEWIS BRISBOIS BISGAARD & SMITH LLP

By 

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AMERICAN HOME ASSURANCE COMPANY,

BROADSPIRE SERVICES, INC. and

DAMALI BROOKS

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of LEWIS BRISBOIS BISGAARD & SMITH LLP and, pursuant to Fed. R. Civ. P. 5(b), on the 19 day of December, 2008 a true and correct copy of the above and foregoing **NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441 (DIVERSITY)** was served via electronic service by the U.S. District Court CM/ECF system to the parties listed on the Electronic Mail Notice List.

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Attorneys for Plaintiff

By 

An Employee of LEWIS BRISBOIS
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